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| APPLICATION NO | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO    | CONFIRMATION NO |
|----------------|-------------|----------------------|-----------------------|-----------------|
| 09/996,009     | 11/28/2001  | Ryan Likeke Naone    | 47059 PAN/C715/CLO157 | 2669            |

3017 7590 06/18/2003

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EXAMINER

DAVIE, JAMES W

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

**Application No.**

09/996,009

**Applicant(s)**

NAONE, RYAN LIKEKE

**Examiner**

James W Davie

**Art Unit**

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,9-15,20-28 and 31-34 is/are allowed.
- 6) ☒ Claim(s) 4,5,16-19,29,30,35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3, 4</u> . | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 5, 7, 8, 16-19, 27, 29, 30, 35 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The instant claims are indefinite for the following reasons:

(a) Claim 4 recites the limitation "said low" in line 1. There is insufficient antecedent basis for this limitation in the claim.

(b) Claim 5 recites the limitation "said high" in line 1. There is insufficient antecedent basis for this limitation in the claim.

(c) Claim 16 recites the limitation "said low" in line 1. There is insufficient antecedent basis for this limitation in the claim.

(d) Claim 17 recites the limitation "said high" in line 1. There is insufficient antecedent basis for this limitation in the claim. Thus claims 17-19 are rendered indefinite.

(e) Claim 27 recites the limitation "said high" in line 1. There is insufficient antecedent basis for this limitation in the claim.

(f) In claims 7, 8, 29, 30, 35 and 36, second line, "first concentration of Al in a range" doesn't read well.

Art Unit: 2828

- (g) Claim 19 fails to end with the required period.

***Allowable Subject Matter***

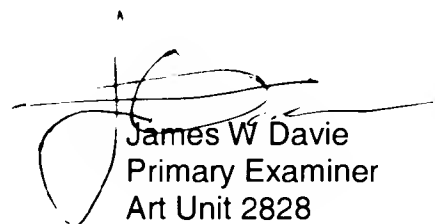
3. Claims 1-3, 9-15, 20-28 and 31-34 are allowed.
4. Claims 4-8, 16-19, 29, 30, 35 and 36 would be allowed if they were to be written to overcome the 35 U.S.C. 112 rejections.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W Davie whose telephone number is (703) 308-4847. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
James W Davie  
Primary Examiner  
Art Unit 2828

jd  
June 16, 2003